

**AN ORDINANCE AMENDING SECTIONS 20-2-20, 20-2-5, 23-3, 23-3-1, 23-3-2
AND 23-3-3 OF THE WINCHESTER ZONING ORDINANCE TO ENACT NEW
ADMINISTRATIVE AUTHORITY POWERS TO THE ZONING
ADMINISTRATOR.
TA-05-03**

*Ed. Note: The following text represents an excerpt of the Zoning Ordinance that are subject to change. Words with ~~strikethrough~~ are proposed for repeal. Words that are **boldfaced and underlined** are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.*

Text Amendment for Section 20-2-3.2

No such variance shall be authorized by the Board unless it finds:

- a. That the strict application of this Ordinance would produce ~~a undue~~ **a clearly demonstrable** hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

**Text Amendment for Section 20-2-5
(Delete)**

~~20-2-5 To authorize, upon application, the following special exceptions:
(10-10-89, Case TA-89-05, Ord. No. 028-89)~~

~~20-2-5.1 Reduction of setback, yard lot area or lot width requirements. No such reduction shall be granted in excess of ten (10) percent of the requirement.
(10-10-89, Case TA-89-05, Ord. No. 028-89, 2-8-94 Case TA-97-07, Ord. No. 003-94)~~

~~20-2-5.2 Reduction of the requirements for off street parking. No such reduction shall be granted in excess of ten (10) percent of the requirement.
(10-10-89, Case TA-89-05, Ord. No. 028-89)~~

~~20-2-5.3 — Enlargement of permitted sign area. No such enlargement shall be granted in excess of ten (10) percent of the maximum permitted area. (10-10-89, Case TA-89-05, Ord. No. 028-89)~~

~~20-2-5.4 — Repair or reconstruction of a nonconforming structure or a conforming structure devoted to a nonconforming use that is destroyed or damaged in any manner to the extent that the cost of reconstructing the structure shall exceed fifty (50) percent of the cost of reconstructing the entire structure.~~

~~20-2-5.5 — For any use in this Ordinance specifically listed requiring a special exception.~~

~~20-2-5.6 — Reduction of the separation of off-street parking areas from side or rear property lines or from site features more than six (6) inches above or below grade. No such reduction shall be granted in excess of ten (10) percent of the requirement. (10-10-89, Case TA-89-05, Ord. No. 028-89)~~

~~20-2-5.7 — Repair and maintenance of any nonconforming structure or portion of a structure containing a nonconforming use. No such repair or maintenance shall be granted to an extent in excess of twenty-five (25) percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be. (04-11-95 Case TA-94-13, Ord. No. 017-95)~~

~~20-2-5.8 — Reserved.~~

~~20-2-5.9 — In reaching a decision on the authorization of a special exception, the Board of Zoning Appeals shall consider, where applicable, the following:~~

- ~~— stated intent of the zoning district in which the property is located;~~
- ~~— uses in the area immediately surrounding the property in question;~~
- ~~— amount of traffic to be generated;~~
- ~~— number of people to be employed; and~~
- ~~— hardship that would result from the denial of the special exception.~~

~~20-2-5.10 — A special exception shall not be approved by the Board of Zoning Appeals unless it is found that:~~

- ~~— it is designed, constructed and operated to adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property;~~
- ~~— it does not unreasonably impair an adequate supply of light and air to adjacent property;~~
- ~~— it does not increase public danger from fire or otherwise unreasonable restrict public safety; and~~
- ~~— it does not impair the established property values in surrounding areas.~~

- 20-2-5.11 The Board may impose such conditions relating to the use for which a permit is granted as it deems necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

**Text Amendment for Section 23-3
(Delete)**

~~Upon application by the property owner, the zoning administrator, may modify the following development standards to the extent listed for each of the standards: (Section adopted 2-12-91, Case TA90-07, Ord. No. 006-91)~~

- ~~a. Setback or yard requirements: A maximum of one foot. However, this section shall not be used to modify the standards listed in section 18-9-2.~~
- ~~b. Enlargement of permitted sign area: A maximum of five percent of the maximum permitted area.~~
- ~~c. Reduction of separation of off-street parking areas from side or rear property lines or from site features more than six inches above or below grade: A maximum six inch deviation from the requirement.~~
- ~~d. Modification of any other dimensional standard set out in this Ordinance: A maximum of five percent of the standard.~~

~~The Administrator may grant the relief requested only upon a clear showing by the applicant that the need for the modification exists by reason of a reasonable mistake in construction or placement of the building, structure, or other item necessitating the request. The applicant shall submit an affidavit to the administrator setting forth the reasons for the mistake and the need for the modification.~~

~~If the application is denied by the administrator, the applicant may appeal the decision to the Board of Zoning Appeals pursuant to either Section 20-2-3, 20-2-4, or 20-2-5 of this Ordinance, as appropriate.~~

~~The zoning administrator shall regularly report to City Council, the Commission and the Board of Zoning Appeals all requests for relief made under this Section and the action taken.~~

**Text Amendment for Section 23-3-1 Administrative Approval of Modifications to
Development Standards.**

New

Section 23-3

Upon application by the property owner, the Administrator may grant a modification to reduce the following development standards to the extent listed for each of the standards:

- a. **Reduction of Setback, yard lot area or lot width requirements: A maximum of ten percent of the requirement. However, this section shall not be used to modify the standards listed in section 18-9-2.**
- b. **Enlargement of permitted sign area. No such enlargement shall be granted in excess of ten (10) percent of the maximum permitted area.**
- c. **Repair or reconstruction of a nonconforming structure or a conforming structure devoted to a nonconforming use that is destroyed or damaged in any manner to the extent that the cost of reconstructing the structure shall exceed fifty (50) percent of the cost of reconstructing the entire structure.**
- d. **For any use in this Ordinance specifically listed requiring a special exception.**
- e. **Reduction of the separation of off-street parking areas from side or rear property lines or from site features more than six (6) inches above or below grade. No such reduction shall be granted in excess of ten (10) percent of the requirement.**
- f. **Repair and maintenance of any nonconforming structure or portion of a structure containing a nonconforming use. No such repair or maintenance shall be granted to an extent in excess of twenty-five (25) percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be.**

Text Amendment for Section 23-3-1

New

Section 23-3-1

No such modification shall be authorized by the Administrator unless he/she finds:

- a. That the strict application of this Ordinance would produce a clearly demonstrable hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

Text Amendment for Section 23-3-2

New

Section 23-3-2

Prior to the granting of an administrative approval of development standards, the applicant shall submit an application and an affidavit to the Administrator setting forth the reasons and the need for the modification. Once the application has been accepted, the Administrator shall give, or require the applicant to give, all adjoining property owners and Board of Zoning Appeals members written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. If any member of the Board of Zoning Appeals requests to fore go this section, the subject application shall be heard by the Board of Zoning Appeals pursuant to Article 20 of the this Ordinance. The Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The decision of the Administrator shall constitute a decision within the purview of § [15.2-2311](#), and may be appealed to the Board of Zoning Appeals as provided by that section. Decisions of the Board of Zoning Appeals may be appealed to the circuit court as provided by § [15.2-2314](#).